

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

CR 19-42-GF-BMM-JTJ

Plaintiff,

**FINDINGS AND
RECOMMENDATIONS**

vs.

DELWIN PAUL CALFLOOKING,
SR.,

Defendant.

I. Synopsis

Defendant Delwin Paul Calflooking, Sr. (Calflooking) has been accused of violating the conditions of his supervised release. Calflooking admitted alleged violations 1 through 7. Calflooking denied alleged violation 8. The government failed to satisfy its burden of proof with respect to alleged violation 8. Calflooking's supervised release should be revoked. Calflooking should be placed in custody for 5 months, with no supervised release to follow.

II. Status

Calflooking pleaded guilty to Assault of an Intimate or Dating Partner by Strangulation on July 31, 2019. (Doc. 34). The Court sentenced Calflooking to 24 months of custody, followed by 2 years of supervised release. (Doc. 41).

Calflooking's current term of supervised release began on June 16, 2021.

(Doc. 48 at 1).

Petition

The United States Probation Office filed a Petition on October 27, 2022, requesting that the Court revoke Calflooking's supervised release. (Doc. 48). The Petition alleged that Calflooking had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing on 4 separate occasions; 2) by failing to report for substance abuse treatment on 3 separate occasions; and 3) by failing to allow his probation officer to conduct a home visit.

Initial appearance

Calflooking appeared before the undersigned for his initial appearance on November 28, 2022. Calflooking was represented by counsel. Calflooking stated that he had read the petition and that he understood the allegations. Calflooking waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on November 28, 2022.

Calflooking admitted that he had violated the conditions of his supervised release:

1) by failing to report for substance abuse testing on 4 separate occasions; and

2) by failing to report for substance abuse treatment on 3 separate occasions.

Calflooking denied alleged violation 8. The government failed to satisfy its burden of proof with respect to alleged violation 8. The violations that Calflooking admitted are serious and warrant revocation of Calflooking's supervised release.

Calflooking's violations are Grade C violations. Calflooking's criminal history category is I. Calflooking's underlying offense is a Class C felony. Calflooking could be incarcerated for up to 24 months. Calflooking could be ordered to remain on supervised release for up to 24 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Calflooking's supervised release should be revoked. Calflooking should be placed in custody for 5 months, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Calflooking that the above sentence would be recommended to Chief United States District Judge Brian Morris. The Court also informed Calflooking of his right to object to these Findings and

Recommendations within 14 days of their issuance. The Court explained to Calflooking that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Calflooking stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Delwin Paul Calflooking violated the conditions of his supervised release: by failing to report for substance abuse testing on 4 separate occasions; and by failing to report for substance abuse treatment on 3 separate occasions.

The Court **RECOMMENDS:**

That the District Court revoke Calflooking's supervised release and commit Calflooking to the custody of the United States Bureau of Prisons for 5 months, with no supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and

Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 29th day of November, 2022.



John Johnston
United States Magistrate Judge